

Arizona PIRG

Education Fund

May 10, 2023

Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

RE: AU-00000A-16-0141

Dear Chairman O'Connor and Commissioners,

On behalf of the Arizona PIRG Education Fund, I write to provide input on the proposed Public Comment and modified Robert's Rules of Order documents.

The Arizona PIRG Education Fund very much appreciates the Commission's work to encapsulate policies and procedures of the Commission in writing to provide consistent guidelines for Commissioners and members of the public. In the future, we strongly encourage the filing of draft documents in the relevant docket prior to Commission discussion in order for stakeholders and members of the public to provide input based on their experience. Providing draft documents not only reinforces the Commission's desire to be transparent but also reduces staff time needed to respond to FOIA requests.

While our comments will largely center on the provided documents, we encourage you to consider our previous provided recommendations to the Commission including [Recommendations to Increase Efficiencies and Improve Opportunities for Public Participation at the Commission](#)¹, and [Improve & Increase Communication to the Public; Improve & Increase Opportunities for Stakeholder & Ratepayer Engagement; and Improve & Increase Commission Staff Accessibility & Accountability](#)²,

Since we did not receive the most up-to-date set of documents prior to drafting our letter, I will note comments based off of the April 14, 2023 "Draft Rules of procedure" document we were provided by the legal department. Please note we received the documents yesterday afternoon and, with the exception of Commissioners/Staff, we did not have the opportunity to reach out and confer with others to discuss the proposals. The Arizona PIRG Education Fund recognizes there are a number of Staff, stakeholders, and ratepayers with a long record of engagement at the Commission and there are undoubtedly other points worthy of your consideration. Therefore, please note the list is not exhaustive and we recognize the documents will need to be revised as necessary over time to adapt to various circumstances.

¹ <https://docket.images.azcc.gov/E000024366.pdf?i=1683765334838>

² <https://docket.images.azcc.gov/E000011601.pdf?i=1627497308160>

Both the “Public Comment” and “Rules of Procedure for Arizona Corporation Commission Open Meetings” would benefit from brief context noting the purpose of the Commission (even if hyperlinked to a Commission document) and welcoming public participation in person, through the phone/web, and/or entering input in the docket.

Public Comment

Rule 1. Parties to a docket are not public commenters.

It would help to define or hyperlink to what constitutes a party.

Rule 2 (Rule 6 and Rule 7). The deadline for individuals to sign up to speak is 10:00 a.m. (or the start of the meeting if not at 10:00) on the day of the meeting.

Members of the public should be encouraged to sign up as early as possible; however, those seeking to provide public comment should be allowed to sign up prior to public comment concluding on the related item. Each member of the public should have 3 minutes to speak (additional time given for interpreters). A Commissioner(s) should be allowed to ask a question(s) of an individual offering comment, provided it is relevant to the topic, seeks to clarify a position, or get input on a potential amendment(s). If a Commissioner is deemed to be needlessly prolonging the ability of an individual to speak, the Chair may use her/his discretion to move the item along and/or seek a response from an individual that may have a counter position.

Rule 3. Individuals with a shared position are encouraged to select a spokesperson for their group.

Individuals with a shared position are encouraged, but not required, to select a spokesperson for their group. If an individual is speaking on behalf of a number of entities that are otherwise available to provide their unique comment, the individual serving as spokesperson for the group should be given 5 minutes in order to address various perspectives.

Rule 13. Speakers may bring written copies of their own comments to a Commission open meeting for distribution to the Commissioners and/or ~~Executive Director~~ Staff. Speakers are encouraged to file their comments in the appropriate docket or with the Chair’s permission may distribute comments to the Commissioners and/or Staff. **If an individual directly sends a Commissioner correspondence that should have been docketed, the Commissioner has the responsibility upon receipt to place that item(s) in the relevant docket(s).**

Rule 15. The Commission, **through a majority vote**, reserves the right to override the above rules in case of emergency or other unforeseen circumstances.

To provide the public with an understanding of the policies that govern Commissioners and/or Staff, the Public Comment document should carry over statements and/or hyperlink to documents, such as the second paragraph in the Rules of Procedure for Arizona Corporation Commission Open Meetings and the Code of Ethics.

Rules of Procedure for Arizona Corporation Commission Open Meetings

II. Open Meetings

Rule 2. Meetings to be Open.

2. Except as otherwise provide in these rules and in accordance with applicable law, each official meeting of the Commission should be open to the public **in person or through technological devices**, and any person is entitled to attend such meeting.

3a. A one-way electronic communication by one member of the Commission that is sent to a quorum of the members of the Commission and that proposes legal action. **In this instance, the communication needs to immediately be filed in the appropriate docket(s).**

3b. An exchange of electronic communications among a quorum of the members of the Commission that involves a discussion, deliberation, or the taking of legal action by the Commission concerning a matter likely to come before the public body for action. **In this instance, the communication needs to immediately be filed in the appropriate docket(s).**

Rule 3. Executive Session.

2. The Commission may go into executive session only upon a motion made and duly adopted at an Open Meeting. **The public should be provided with an explanation as to why the Executive Session is deemed necessary.** Executive Session is limited to the 9 reasons set out in A.R.S. 38-431.03(A), the most common of which is to obtain legal advice from the Commission's attorneys.

III. Meetings

Rule 4. Open Meeting.

3. Workshops and Presentations. These rules shall not apply to workshops or special presentations. An Agenda will be issued in accordance with Open Meeting law in the event that a quorum of the Commission may be present. No votes are taken during a workshop or special presentation.

Please see the Arizona PIRG Education Fund's previously provided recommendations regarding [Workshops at the Commission](#)³.

IV. Agenda

Rule 5. Agenda.

1. The Commission will ~~provide the public with a statement of where the Agenda may be found~~ **prominently feature the Open Meeting agenda on the homepage of its website.** ~~Such statement shall be posted in the Commission's website as well as~~ **ensure it is** physically posted at the

³ <https://docket.images.azcc.gov/E000014849.pdf?i=1676931319100>

Commission offices. As the Commission updates its website and related resources, the Commission will make the Agenda “live” in order for stakeholders and members of the public to follow the business of the Commission, by noting which items have been and are yet to be discussed, in real time.

2. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting. The Commission will strive to make the agenda ~~must be~~ available to the public a week in advance, but no later than ~~at least twenty-four~~ forty-eight hours before the meeting, except in the case of an actual emergency. The ~~twenty-four~~ forty-eight hour period ~~does not include Saturday, Sunday, or holidays.~~ includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays.

3. The Agenda shall list the specific matters to be discussed, considered, voted on at the Open Meeting. The Commission may discuss, consider, or take a vote only on matters listed on the agenda. The Agenda will include notice and methods for public participation in person and remotely and will include the relevant docket link for each item.

Rule 6. Order of Business.

4. At the beginning of the Open Meeting, the Chair may ask if any Commissioner would like to pull an item from the Agenda to be considered at a future Open Meeting. An item may only be pulled once. A Commissioner is entitled to make one request on an item. A Commissioner may request that a matter be pulled. The Agenda should clearly state if the matter must remain on the Agenda due to a legal circumstance.

V. Conduct of Debate

Rule 9. A Second is ~~not~~ required. A motion shall ~~not~~ require a second.

Rule 12. Proposed Amendments. If Amendments are offered by Commissioners, the Chair decides what order to address the amendments. The originator of the amendment moves the amendment(s). Once the amendments are discussed, the Chair calls for a vote on the amendments. If one or more amendments pass by a majority vote, ~~and are in conflict with one another (e.g., one amendment is for 18 months and one amendment is for 24 months), the last amendment to pass supersedes the previous vote, and the agenda item, with any approved amendments,~~ is moved as amended for a vote of the Commission.


Rule 14. Procedural Motions.

1b. To Take a Recess. A recess may be taken by an approved vote of the body or the discretion of the Chair.

1c. To Defer or postpone Consideration. The Commission may defer a vote on an agenda item until the next Open Meeting or another future Open Meeting when more information is needed, or the deliberations are likely to be lengthy. The Commission should strive to make this decision prior to the Open Meeting or, at a minimum, at the start of the Open Meeting.

As always, the Arizona PIRG Education Fund plans to remain engaged and share our experiences as the Commission and other government entities establish and implement replicable best practices. Please don't hesitate to contact me directly at (602)318-2779 (c) or dbrown@arizonapirg.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Diane E. Brown", with a stylized flourish at the end.

Diane E. Brown
Executive Director

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Gilbert, AZ 85233**